IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF JUNE

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO. 954 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 5/04/2004 in WP NO. 3125 OF 2003 on the file of the High Court.)

Between:

1. **A.P. State Road Transport Corporation, Mushirabad, Hyderabad, rep. By its Managing Director.**
2. **The Depot Manager, APSRTC., Tuni Depot, East Godavari District.** **APPELLANTS**

AND

1. **Surla Jameelu, E.454663, Conductor, APSRTC Bus Depot, Razole Depot, East Godavari District.**
2. **Industrial Tribunal-cum-Labour Court, Visakhapatnam, rep. By its Presiding Officer.** **RESPONDENTS**

Standing Counsel for the appellants: Mr.K.Harinath.

Counsel for the Respondent No.1: Mr.S.A. Razzak.

For the Respondent No.2: G.P. for Labour.

The Court made the following:

ORAL JUDGMENT: (per GB. J.)

The Writ Appeal is filed against the order passed by the learned single Judge in Writ Petition No.3125 of 2003, dated 5.4.2004.

2. The 1st respondent was working as Conductor in APSRTC, Rajole Depot. While so, the Checking Officials exercised a check and found certain irregularities. Thereafter a charge sheet was issued on 27.11.1998 to the 1st respondent and ultimately he was removed from service. After removal he raised an industrial dispute in I.D.No.19 of 2000 before the Labour Court, Visakhapatnam. The Tribunal, after conducting elaborate enquiry, found that the charges were not established except the irregularity in wrong punching, which was also due to inadvertence. Accordingly the Tribunal by its order dated 24.10.2002 set aside the order of removal and directed the respondent/Management therein to reinstate the workman into service with full back wages and continuity of service. Aggrieved by the said order the matter was carried in Writ Petition No.3125 of 2003 by the Corporation. The learned single Judge, after considering the matter, held that it is not a case for interference under Article 226 of the Constitution, as the findings recorded by the Tribunal are purely questions of fact, and accordingly dismissed the Writ Petition by an order dated 5.4.2004. Against the said order, the present Writ Appeal has been filed.

3. The learned Standing Counsel Mr.K.Harinath, appearing for the APSRTC, vehemently submits that the order of the learned single Judge is wholly misconceived and the same is not sustainable. He submits that when the charges are established, the employee was not entitled for any relief. He further submits that when the employee himself accepted that there was irregularity in punching, the Tribunal and the learned single Judge ought to have considered this matter. Lastly he submits that at any rate the back wages is not an automatic relief and the 1st respondent has to establish that he was unemployed and there is no such evidence to that extent before the Tribunal. Hence the award of back wages is also illegal and contrary to law.

4. We have also heard the learned counsel for the 1st respondent-workman and the learned Government Pleader for Labour.

5. We have perused the order of the learned single Judge. The learned single Judge has categorically recorded a finding that the award did not warrant any interference under Article 226 of the Constitution. In such a situation it would not be appropriate for this Court to interfere with the same in the appellate jurisdiction.

6. Coming to the award of back wages, it is to be seen that no evidence was placed before the Tribunal by the Management to the effect that the employee was employed during the interregnum so as to deny the back wages. In the absence of any material, the Tribunal was justified in awarding full back wages. Thus, we do not find any ground to interfere with the order passed by the Tribunal and the learned single Judge so as to come to a different conclusion. We find no merits in the appeal.

7. In the result, the Writ Appeal is dismissed. No costs.

(G.BIKSHAPATHY, J.)

25th June, 2004.

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(B.SESHASAYANA REDDY, J.)

SSR

Copies to

1. The Hon'ble Sri Justice G.Bikshapathy (for His Lordship's kind perusal).
2. **A.P. State Road Transport Corporation, Mushirabad, Hyderabad, rep. By its Managing Director.**
3. **The Depot Manager, APSRTC., Tuni Depot,**
4. **East Godavari District.**
5. **Industrial Tribunal-cum-Labour Court, Visakhapatnam, rep. By its Presiding Officer.**
6. **2 CCS to G.P. for Labour, High Court Buildings, (O.U.T.)**
7. **2 CD Copies.**